



[6450-01-P]

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. RF-035]

Notice of Petition for Waiver of Liebherr Canada Ltd. from the Department of Energy Residential Refrigerator and Refrigerator-Freezer Test Procedure, and Grant of Interim Waiver

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of petition for waiver, notice of grant of interim waiver, and request for comments.

SUMMARY: This notice announces receipt of a petition for waiver and application for interim waiver (hereafter, “petition”) from Liebherr Canada Ltd. (Liebherr) regarding specified portions of the U.S. Department of Energy (DOE) test procedure for determining the energy consumption of residential electric refrigerators and refrigerator-freezers. In its petition, Liebherr proposes to use an alternate test procedure that would permit the testing of its all-refrigerator model while physically connected to Liebherr’s companion upright freezer model, which is necessary for the refrigerator to function properly. DOE solicits comments, data, and information concerning Liebherr’s petition and the suggested modifications. Today’s notice also grants Liebherr an

interim waiver from the residential electric refrigerator and refrigerator-freezer test procedure, subject to use of the alternate test procedure set forth in this notice.

DATES: DOE will accept comments, data, and information with respect to the Liebherr Petition until **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by case number “RF-035,” by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- E-mail: AS_Waiver_Requests@ee.doe.gov Include the case number [Case No. RF-035] in the subject line of the message.
- Mail: Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE-5B/1000 Independence Avenue, SW, Washington, DC 20585-0121. Telephone: (202) 586-2945. Please submit one signed original paper copy.
- Hand Delivery/Courier: Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L’Enfant Plaza SW, Suite 600, Washington, DC 20024. Please submit one signed original paper copy.

Docket: For access to the docket to review the background documents relevant to this matter, you may visit the U.S. Department of Energy, 950 L’Enfant Plaza SW, Washington, DC, 20024; (202) 586-2945, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal

holidays. Available documents include the following items: (1) this notice; (2) public comments received; (3) the petition for waiver and application for interim waiver; and (4) prior DOE waivers and rulemakings regarding similar refrigerator-freezer products. Please call Ms. Brenda Edwards at the above telephone number for additional information.

FOR FURTHER INFORMATION CONTACT: Mr. Bryan Berringer, U.S. Department of Energy, Building Technologies Program, Mail Stop EE-5B, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone: (202) 586-0371. E-mail: Bryan.Berringer@ee.doe.gov.

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC-71, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585-0103. Telephone: (202) 586-8145. E-mail: Michael.Kido@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

I. Background and Authority

Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA), Pub. L. 94-163 (42 U.S.C. 6291-6309, as codified), established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program covering most major household appliances, which includes the electric refrigerators that are the focus of this notice.¹ Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part B authorizes the

¹ For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

Secretary of Energy to prescribe test procedures that are reasonably designed to produce results that measure the energy efficiency, energy use, or estimated annual operating costs of a covered product, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for electric refrigerators and refrigerator-freezers is contained in 10 CFR part 430, subpart B, appendix A.

The regulations set forth in 10 CFR 430.27 contain provisions that enable a person to seek a waiver from the test procedure requirements for covered products. The Assistant Secretary for Energy Efficiency and Renewable Energy (the Assistant Secretary) will grant a waiver if it is determined that the basic model for which the petition for waiver was submitted contains one or more design characteristics that prevents testing of the basic model according to the prescribed test procedures, or if the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(l). A petitioner must include in its petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption. The Assistant Secretary may grant the waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(l). Waivers remain in effect pursuant to the provisions of 10 CFR 430.27(m).

The waiver process also allows the Assistant Secretary to grant an interim waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 10 CFR 430.27(g). An interim waiver remains in effect for 180 days

or until DOE issues its determination on the petition for waiver, whichever occurs earlier. DOE may extend an interim waiver for an additional 180 days. 10 CFR 430.27(h).

II. Petition for Waiver of Test Procedure and Application for Interim Waiver

On September 27, 2013, Liebherr filed a petition for waiver and an application for interim waiver from the test procedure applicable to residential electric refrigerators and refrigerator-freezers set forth in 10 CFR part 430, subpart B, appendix A. The subject of the waiver petition is Liebherr's all-refrigerator model, which shares a control panel with an accompanying freezer. Testing to the procedures in Title 10 of the Code of Federal Regulations (10 CFR), part 430, subpart B, appendix A, section 3 Test Control Settings requires that refrigerators with a user operable temperature control be tested with the control set in a prescribed manner according to TABLE 1—TEMPERATURE SETTINGS FOR ALL-REFRIGERATORS. According to Liebherr, this is not possible for this model unless the refrigerator is connected to the accompanying freezer which has the control panel for both appliances. The petition for waiver is to allow a freezer, with the appropriate connection and control panel, to be connected to the refrigerator for the sole purpose of changing the control settings in the refrigerator under test.

In its petition Liebherr proposes to use an alternate test procedure to test these products. Specifically Liebherr proposes to place the refrigerator in position for testing, locate the freezer close enough to attach the low voltage connection (approximately 18”) but not in a location where the freezer interferes with the ambient air flow or other testing conditions, connect the refrigerator's low voltage cable to the freezer, plug in the freezer, turn the freezer off on the

control panel, and use the refrigerator portion of the control panel to set the appropriate temperatures for the refrigerator test.

Liebherr also requests an interim waiver from the existing DOE test procedure. An interim waiver may be granted if it is determined that the applicant will experience economic hardship if the application for interim waiver is denied, if it appears likely that the petition for waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination of the petition for waiver. 10 CFR 430.27(g).

DOE has determined that Liebherr's application for interim waiver does not provide sufficient market, equipment price, shipments and other manufacturer impact information to permit DOE to evaluate the economic hardship Liebherr might experience absent a favorable determination on its application for interim waiver. DOE has determined, however, that it is likely Liebherr's petition will be granted, and that it is desirable for public policy reasons to grant Liebherr relief pending a determination on the petition. DOE has determined that it is desirable to have similar basic models tested in a consistent manner.

For the reasons stated above, DOE grants Liebherr's application for interim waiver from testing of its all-refrigerator that shares a control panel with an accompanying freezer.

Therefore, *it is ordered that:*

The application for interim waiver filed by Liebherr is hereby granted for the specified Liebherr refrigerator-freezer basic models that share a control panel with an accompanying freezer, subject to the specifications and conditions below. Liebherr shall be required to test or rate the specified refrigerator-freezer products according to the alternate test procedure as set forth in section III, “Alternate Test Procedure.”

The interim waiver applies to the following basic model groups:

RB 1420
R 1420

DOE makes decisions on waivers and interim waivers for only those models specifically set out in the petition, not future models that may be manufactured by the petitioner. Liebherr may submit a subsequent petition for waiver and request for grant of interim waiver, as appropriate, for additional models of refrigerator-freezers for which it seeks a waiver from the DOE test procedure. In addition, DOE notes that a grant of an interim waiver or waiver does not release a petitioner from the certification requirements set forth at 10 CFR part 429.

Further, this interim waiver is conditioned upon the presumed validity of statements, representations, and documents provided by the petitioner. DOE may revoke or modify this interim waiver at any time upon a determination that the factual basis underlying the petition for waiver is incorrect, or upon a determination that the results from the alternate test procedure are unrepresentative of the basic models’ true energy consumption characteristics.

III. Alternate Test Procedure

EPCA requires that manufacturers use DOE test procedures to make representations about the energy consumption and energy consumption costs of products covered by the statute. (42 U.S.C. 6293(c)) Consistent representations are important for manufacturers to use in making representations about the energy efficiency of their products and to demonstrate compliance with applicable DOE energy conservation standards. Pursuant to its regulations applicable to waivers and interim waivers from applicable test procedures at 10 CFR 430.27, DOE will consider setting an alternate test procedure for Liebherr in a subsequent Decision and Order.

In its petition, Liebherr proposes to use an alternate test procedure. The DOE test procedure for residential refrigerators and refrigerator-freezers in Title 10 of the Code of Federal Regulations (10 CFR), part 430, subpart B, appendix A, section 3 Test Control Settings requires that refrigerators with a user operable temperature control be tested with the control set a prescribed manner according TABLE 1—TEMPERATURE SETTINGS FOR ALL-REFRIGERATORS. As described by Liebherr, these models are physically two separate cabinets, but are designed to be installed immediately adjacent, or in close proximity, to each other. In addition, the freezer model contains the control panel that controls the compartment temperatures of both appliances. Liebherr states that, because of this design feature, it is not possible to test the refrigerator model using the existing Appendix A test procedure unless the refrigerator is connected to the accompanying freezer; no provision in Appendix A allows for such an arrangement.

Liebherr proposes to use the test method of appendix A to subpart B of 10 CFR part 430 to test its refrigerator models, with a modification to address the connection of the refrigerator to the freezer. For the purposes of granting the interim waiver, DOE has modified slightly the language of Liebherr's proposal to be more consistent with the language of the DOE test procedure. For the purposes of testing the models addressed in this interim waiver, the following shall be treated as an additional requirement in Section 2 of Appendix A addressing test condition:

2.11 Connection of refrigerator cabinet to separate freezer cabinet: The refrigerator shall be positioned for testing in accordance with this section, with the freezer positioned close enough to the refrigerator to allow attachment of the low voltage connection (approximately 18"), but not in a location in which the freezer interferes with the ambient air flow or other testing conditions specified in this section. The refrigerator's low voltage cable shall be connected to the freezer prior to testing. The freezer must be plugged in in during testing, but shall be placed in the "off" position on the control panel. The refrigerator portion of the control panel shall then be used to set the appropriate temperatures for the refrigerator test as required by Section 3. Test Control Settings and perform the remainder of the test as prescribed by this Appendix.

DOE notes that Liebherr has not petitioned for a test procedure waiver nor requested an interim waiver for its accompanying freezer models. Thus, the freezer models shall be tested according to the applicable test procedure in appendix B to subpart B of 10 CFR part 430 without modification.

IV. Summary and Request for Comments

Through today's notice, DOE announces receipt of Liebherr's petition for waiver from certain parts of the test procedure in 10 CFR Part 430, subpart B, appendix A and grants an interim waiver to Liebherr. DOE is publishing Liebherr's petition for waiver. The petition contains no confidential information. The petition includes a suggested alternate test procedure to measure the energy consumption of refrigerator-freezer basic models that shares a control panel with an accompanying freezer.

DOE solicits comments from interested parties on all aspects of the petition. Any person submitting written comments to DOE must also send a copy of such comments to the petitioner. 10 CFR 430.27(d). The contact information for the petitioner is: Gordon Tosh, Technical Advisor, Refrigerator and Freezer Division, Liebherr Canada Ltd., 1015 Sutton Drive Burlington, Ontario, Canada, N0B 2K0. All submissions received must include the agency name and case number for this proceeding. Submit electronic comments in WordPerfect, Microsoft Word, Portable Document Format (PDF), or text (American Standard Code for Information Interchange (ASCII)) file format and avoid the use of special characters or any form of encryption. Wherever possible, include the electronic signature of the author. DOE does not accept telefacsimiles (faxes).

Issued in Washington, DC, on January 16, 2014.

Kathleen B. Hogan
Deputy Assistant Secretary for Energy Efficiency
Energy Efficiency and Renewable Energy

September 27, 2013
The Honorable David Danielson

Assistant Secretary
Energy Efficiency and Renewable Energy
U. S. Department of Energy
Mail Station EE-10
1000 Independence Avenue, S.W.
Washington D.C. 20585-010

Liebherr Canada Ltd. (Liebherr) respectfully submits an Application for Petition of Waiver and Application for Interim Waiver to the Department of Energy (DOE) with regard to Liebherr's all-refrigerator that shares a control panel with an accompanying freezer.

Reasoning

10 CFR 430.27, Petitions for waiver and applications for interim waiver, allows any interested person to submit a petition to waive for a particular basic model any requirements of § 430.23, or of any appendix to this subpart, upon the grounds that the basic model contains one or more design characteristics which prevent testing of the basic model according to the prescribed test procedures.

APPENDIX A TO SUBPART B OF PART 430—UNIFORM TEST METHOD FOR MEASURING THE ENERGY CONSUMPTION OF ELECTRIC REFRIGERATORS AND ELECTRIC REFRIGERATOR-FREEZERS, SEC. 3 TEST CONTROL SETTINGS: Requires that refrigerators with a user operable temperature control be tested with the control set a prescribed manner according TABLE 1—TEMPERATURE SETTINGS FOR ALL-REFRIGERATORS. This is not possible unless the refrigerator is connected to the accompanying freezer which has the control panel for both appliances.

Liebherr petitions for waiver for a refrigerator that due to a design characteristic prevents testing of the basic model according to the prescribed test procedures because its control panel is located in an accompanying freezer. The petition for waiver is to allow a freezer, with the appropriate connection and control panel, to be connected to the refrigerator for the sole purpose of changing the control settings in the refrigerator under test.

Alternate test procedure.

When the refrigerator is in position for testing, locate the freezer close enough to attach the low voltage connection (approximately 18") but not in a location where the freezer interferes with the ambient air flow or other testing conditions. Connect the refrigerator's low voltage cable to the freezer. Plug in the freezer. Turn the freezer off on the control panel. Use the refrigerator portion of the control panel to set the appropriate temperatures for the refrigerator test.

Conclusion

Liebherr Petitions for Waiver and application for Interim Waiver to allow the use of the control panel in an accompanying freezer to set the temperature of a refrigerator under test.

The effected models are RB 1420 and R 1420.

Please feel free to contact me if we have any questions regarding this Petition for Waiver and application for Interim Waiver. I will be happy to provide any other information or discuss any questions.

Sincerely,

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[FR Doc. 2014-01346 Filed 01/22/2014 at 8:45 am; Publication Date: 01/23/2014]